

PT 95-18  
Tax Type: PROPERTY TAX  
Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE HEARINGS DIVISION  
SPRINGFIELD, ILLINOIS

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EVANGELICAL FREE CHURCH OF ) Docket No.(s) 93-56-75  
CRYSTAL LAKE )  
 )  
Applicant ) PI No.(s) 19-04226002  
 ) (McHenry County)  
 )  
v. )  
 )  
THE DEPARTMENT OF REVENUE ) George H. Nafziger  
OF THE STATE OF ILLINOIS ) Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES Mr. Todd W. Syverson, attorney for Applicant, appeared on behalf of Applicant.

SYNOPSIS The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on December 14, 1994, to determine whether or not McHenry County parcel No. 19-04226002 and the buildings thereon, should be exempt from real estate tax for the 1993 assessment year.

Is Applicant a religious organization? Did Applicant own the parcel here in issue during all of the 1993 assessment year? Did Applicant use all of the parcel here in issue and the buildings thereon, for religious or school purposes during the 1993 assessment year? Following the submission of all the evidence and a review of the record, it is determined that Applicant is a religious organization. It is also determined that Applicant owned the parcel here in issue and the buildings thereon, during all of the 1993 assessment year. In addition, it is determined that Applicant used all of the parcel here in issue and the buildings thereon, for religious or school purposes during the entire 1993 assessment year.

FINDINGS OF FACT The Department's position in this matter, namely

that the parcel here in issue and the buildings thereon, qualified for exemption for 78% of the 1993 assessment year, was established by the admission in evidence of Department's Exhibits 1 through 6C.

Rev. Robert O. Page, pastor of Applicant, Mr. Jack Strickfaden, vice chairman of Applicant, and Mr. Wendell Thiele, a trustee of Applicant, were present at the hearing, and testified on behalf of Applicant.

On February 7, 1994, the McHenry County Board of Review, forwarded an Application for Property Tax Exemption To Board of Review, concerning the parcel here in issue for the 1993 assessment year, to the Illinois Department of Revenue (Department's Exhibit 2). On August 11, 1994, the Department of Revenue notified the Applicant that it was approving the exemption of the parcel here in issue for 78% of the 1993 assessment year (Department's Exhibit 3). On August 29, 1994, Applicant's then attorney requested a formal hearing in this matter (Department's Exhibit 4). The hearing held on December 14, 1994, was held pursuant to that request.

Applicant was incorporated on September 18, 1974, pursuant to the "General Not For Profit Corporation Act" of Illinois for the following purpose:

"A not for profit religious organization."

On January 1, 1993, the title to the 10.4-acre parcel here in issue was in the name of the Home State Bank of Crystal Lake, as trustee of trust No. 2865. On January 1, 1993, Applicant was the holder of the beneficial interest in, and the power of direction, concerning said trust.

Applicant began construction of an education-office wing and a large all-purpose complex on the parcel here in issue during 1991. Applicant proceeded with construction of said facilities during 1992, as well as building a garage on said parcel.

On January 1, 1993, the education-office wing and all-purpose complex was nearly complete. Between January 1, 1993, and March 20, 1993, the

remaining dry wall was hung and taped, the walls painted, and the carpet laid. Applicant held its first services in this building on March 21, 1993.

During 1993, Applicant had approximately 300 members and an average weekly attendance at Sunday morning worship services of 475. During 1993, Applicant held worship services at 10:30 A.M. on Sunday mornings, at 6:00 P.M. on Sunday evenings, and also on Wednesday evenings at 7:00 P.M. Applicant held its worship services in the all-purpose room after the completion of the buildings on this parcel.

Applicant used the garage constructed on this parcel for the storage of the church van, as well as the church yard maintenance and snow removal equipment. Applicant used the entire Sunday School, office, all-purpose complex for religious purposes after the complex was completed, until August 15, 1993. Beginning on August 15, 1993, Applicant entered into an 11-month lease with Harvest Christian School (hereinafter referred to as "Harvest"). Pursuant to that lease, Harvest leased approximately 3,500 square feet of area in the Sunday School office wing for the purpose of operating a Christian day school, including kindergarten through fifth grade, during the regular school year beginning in September 1993, and continuing through the end of 1993. Harvest operated in the rooms it leased during normal school hours, Monday through Friday, during the school year. Applicant continued to have use of the leased area for church or religious use at other times, including evenings and weekends. The lease provided that after the initial term, it could be renewed from year to year. It also provided that Harvest could use the leased area for grades kindergarten through eighth. The lease called for a rental payment of \$300.00 per month, provided that this charge would be waived if Harvest provided janitorial service in the leased area, as well as painting said area annually and cleaning the carpets. Said lease also called for Harvest

to pay a \$300.00 per month maintenance expense, which was subject to certain adjustments, and was basically to cover the utilities used by Harvest. During the period September through December 1993, Harvest actually paid \$1,320.00, or \$330.00 per month.

Harvest was incorporated on May 15, 1990, pursuant to the General Not For Profit Corporation Act of Illinois, for purposes which included the following:

"Furthermore, without limiting the generality of the foregoing, to provide instruction at all ages and grade levels, including nursery school, pre-kindergarten, kindergarten, grammar school, junior high school, high school and college levels in accordance with true Biblical principles and high educational standards.

Harvest Christian School admits students of any race, color, national or ethnic origin to all the rights, privileges, programs and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national or ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school administered programs."

In addition to the Sunday School, office, all-purpose complex, and the garage, the parcel here in issue was improved with a parking lot, which was used by persons attending Applicant's church or religious activities, once the buildings were completed, or in connection with the activities of Harvest during the period September through December 1993.

1. Based on the foregoing, I find that Applicant is a religious organization.

2. Applicant, I find, held the beneficial interest in the land trust, which owned the parcel here in issue during the 1993 assessment year.

3. During the period January 1, 1993, through March 20, 1993, I find that Applicant was in the process of adapting the parcel here in issue for religious and school use.

4. During the period March 21, 1993, through December 31, 1993, Applicant, I find, used the parcel here in issue, the buildings thereon,

and the parking lot, for religious purposes.

5. During the period August 15, 1993, through December 31, 1993, Applicant, I find, leased approximately 3,500 square feet of the Sunday School, office, and all-purpose room complex, to Harvest Monday through Friday, during normal school hours.

6. Harvest, I find, is an Illinois not-for-profit corporation, which conducted a Christian day school, grades kindergarten through fifth grade, in the area it leased from Applicant five days a week.

7. Harvest, I find, did not discriminate on the basis of race, color, national, or ethnic origin.

8. Harvest, I find, taught Christian principals and doctrines in its school, which were compatible with the teachings and doctrines of Applicant.

CONCLUSIONS OF LAW Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.2 (1992 State Bar Edition), exempts certain property from taxation in part as follows:

"All property used exclusively for religious purposes, or used exclusively for school and religious purposes,...and not leased or otherwise used with a view to profit...."

35 ILCS 205/19.16 (1992 State Bar Edition), exempts certain property from taxation in part as follows:

"Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided...and owned by any...institution which meets the qualifications for exemption."

In the case of *People v. Chicago Title and Trust Co.*, 75 Ill.2d 479 (1979), the Court held that the holder of the beneficial interest in a land trust was the owner of the property for real estate tax purposes.

Applicant, I conclude, is the owner of the parcel here in issue for real estate tax purposes. I also conclude that Applicant is a religious organization. Since the completion of the improvements on this parcel on March 20, 1993, I conclude that Applicant has used all of said improvements for religious purposes during the remainder of 1993.

Illinois Courts have held property to be exempt from tax where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (1987).

Consequently, I conclude that the parcel here in issue and the improvements thereon, qualified for exemption during the entire 1993 assessment year.

The Supreme Court in the case of Childrens Development Center v. Olson, 52 Ill.2d 332 (1972), held that where one exempt entity leases property to another exempt entity, which uses said property for an exempt purpose, the lease will not be considered a lease for profit.

I therefore conclude that the lease from Applicant to Harvest was not a lease for profit.

I therefore recommend that McHenry County parcel No. 19-04226002 be exempt from real estate tax for the 1993 assessment year.

Respectfully Submitted,

George H. Nafziger  
Administrative Law Judge

March , 1995